

Mr. Lyle Denniston
Baltimore Sun
1627 K St., NW, #1100
Washington, D.C. 20006

11/4/86

Dear Mr. Denniston,

I've just drafted the last few pages of the appeal due by the 15th in the case in which I could not interest you or, for that matter, any other reporter. In the course of this I came upon something I use in a footnote that I'll enclose. It reminded me of your fairness when this same appeals court perpetrated another outrage and it reminded me that in your story you took my word. To refresh your recollection, the court, as usual, had gone for the FBI/DJ usual concoction that I am forever expanding my requests, which has never been true, their usual claim when I ask that my request, not their persisting revisions of them, be complied with. They did the same thing in the earlier stages of the current lawsuit, hence the footnote. What then was very hurtful to me was the court's error in saying that I was expanding my request to include the President's clothing. My health and the limitations it imposes upon me make the kind of search I'd have to make for the original request impossible, but I did, oddly, have in one of the stacks on my desk an FBI Legal Counsel memo which gives their interpretation of the original request and I quote that in the footnote. It did include JFK's clothing and other objects.

I'd like to be optimistic about what I've just finished and its outcome but journalistic disinterest and the prejudices of the courts do not warrant optimism. But as you can see, the odds have not discouraged me. I don't take your time for the reasons other than one, - believe principle and personal integrity require the effort.

I'm not sending copies of what I file around this time, in part because none of you cares and in part because I can't afford it and in part because making all those copies is too burdensome for my wife, who is only recently out of a wheelchair. Preparing all the copies we need with a machine that has to be rested and cooled often, takes much time. And this time the brief and appendix run about 225 pages.

First we have to get all these pages collated by hand when I am not able to stand still, then we have to get them bound and sent, and then I'll think a bit about sending some selections, perhaps of Issued Presented. I've caught Judge John Lewis Smith lying in his Memorandum and confirming that he lied in his Order. and in taking a few liberties with his quotations of case law. And his interpretations of some and what he ignored in reaching them, like taking something out of the middle when what follows gives it a different meaning entirely. I don't know if you are a lawyer. I'm not. I moved relief under Rule 60(b). It has six clauses. For the most part, and there are some exceptions, a one-year time limit after judgement is issued, applies to the first three clauses. However, when the rule was amended, three additional clauses were added with the stated excuse of tolling that one-year limit. Smith's memorandum with his order states that there is an "ironclad" one-year limit to the entire rule. He says he held an "extensive" hearing and in fact he refused me both an evidentiary hearing and a trial and his order states that what he calls a hearing was "oral arguments" and then he refused to let me read the statement I had prepared. I had to ad lib without notes from a wheelchair. I could go on and on about the state of justice and the courts today but I won't. Or about how it can be this way.

At some point there will be a decision, perhaps oral argument first. In its nasty remand the panel, including that eminent scholar Scalia, didn't even know the subject matter of the suit. This time Smith misstates who is being sued and for what, among much else, while boasting of repeated reviews of the case record, and "exhaustive." I now often think as much of Huxley's "Brave New World" as of "1984."

Sincerely, Harold Weisberg

